IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2169 of 2007
Date of decision 12 .2.2007

Mulakh Raj .. petitioner

Versus

The Financial Commissioner Appeals II, Punjab and others
.. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: Mr.RC Dimri, Advocate for the petitioner

M.M.Kumar, J.

The prayer made in this petition filed under Article 226 of the Constitution is for quashing the the basic order dated 9.3.2005 (Annexure P.3) passed by the Naib Tehsildar cum Assistant Collector, 2nd Grade Bhunga and subsequent order dated 19.4.2005 (Annexure P.6) passed by District Collector Hoshiarpur appointing Sarwan Singh, respondent no. 7 as Lambardar of the village Daulatpur, Tehsil and District Hoshiarpur in place of deceased Lambardar Shri Bachittar Singh. It has also been prayed that the order dated 10.11.2005 (Annexure P.7) passed by the Commissioner, respondent no.2 and order dated 21.2.2006 (Annexure P.9) passed by the Financial Commissioner, respondent no.1 upholding the appointment of respondent no. 7 Sarwan Singh be also quashed. There are categorical findings recorded by the Collector that respondent no. 7 Sarwan Singh is a mature person being 53 years old and he is keeping good health. His land holding has been held to be better than the petitioner and his name has been duly recommended by all the lower revenue officers. The afore-mentioned comparative merit determined by the Collector have been rightly accepted

by the Commissioner as well as Financial Commissioner, respondent nos. 2 and 1 respectively (Annexures P.7 and P.9).

The only argument raised by the learned counsel for the petitioner is that the petitioner has been non suited for the reason that he was involved in a criminal case which resulted in his acquittal vide judgement and order dated 19.4.2001 by the Judicial Magistrate Ist Class, Hoshiarpur (Annexure P.2). According to the learned counsel, the acquittal order is much earlier than the occurrence of vacancy of Lambdardar caused by the death of one Shri Bachttar Singh who died on 1.10.2004 and, therefore, the afore-mentioned fact could not be the basis of non suiting the petitioner.

After hearing the learned counsel and perusing the record alongwith his assistance, we find that the order dated 19.4.2005 (Annexure P.6) passed by the District Collector, Hoshiarpur does not non suit the petitioner on the ground that he was involved in some criminal proceedings. The concluding para of the order dated 19.4.2005 reads as under:

> " I have considered arguments of both the counsels and have considered the view that candidate Shri Sarwan Singh s/o Sh. Sunder Singh is mature and keeping good health at the age of 53 years. He has better land holding than candidate Sh. Mulakh Raj. His name is duly recommended by all the lower revenue officers. Hence, he is appointed as Lambardar of village Daulatpur, Tehsil and District Hoshiarpur in place of deceased Lambardar Sh. Bachittar Singh, Sanad Lambardari be prepared accordingly. File be consigned in the record room.
>
> Announced Sd/- District Collector

19.4.2005 Hoshiarpur”

It is true that in the narration of all the details, the fact of involvement of the petitioner in a criminal case has been mentioned yet it has not influenced the opinion of the District Collector when he determined the comparative merit of the petitioner vis.a.vis Sarwan Singh, respondent no. 7. Therefore, it cannot be concluded that the candidature of the petitioner has been rejected on the ground that he was involved in a criminal case.

For the reasons afore-mentioned this petition fails and the same is dismissed.

X

(M.M.Kumar)
Judge

(Rajesh Bindal)
Judge

12.2.2007
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